

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

UNITED STATES OF AMERICA	:	
	:	
v.	:	CRIMINAL INFORMATION
	:	NO.: 2:17-CR-022-RWS-JCF
ROBERT EDWARD SMITH	:	

REPORT AND RECOMMENDATION CONCERNING PLEA OF GUILTY¹

The defendant, Robert Edward Smith, by consent, has appeared before the undersigned and has entered a plea of guilty to **COUNT ONE** of the Information. After cautioning and examining the defendant under oath concerning each of the subjects mentioned in Rule 11, the undersigned has determined that the guilty plea was knowing and voluntary, and that the plea to the offense charged is supported by an independent basis in fact establishing each of the essential elements of such offense. The undersigned also determined that the defendant voluntarily and expressly waived the right to appeal his conviction and sentence and the right to collaterally attack his conviction and sentence in any post-conviction proceeding (including, but not limited to, motions filed pursuant to 28 U.S.C. § 2255) on any ground, except that the defendant may file a direct appeal of an upward departure or upward variance above the sentencing guideline range as calculated by the

¹ Failure to file written objections to this Report and Recommendation within *14 DAYS* after service of a copy of this Report and Recommendation shall bar an aggrieved party from attacking such report and recommendation before the assigned United States District Judge. 28 U.S.C. § 636(b)(1).

District Court, or if the Government initiates a direct appeal of the sentence imposed, the defendant may file a cross-appeal of that same sentence. Furthermore, claims that the defendant's counsel rendered constitutionally ineffective assistance are also exempt from the waiver. The undersigned therefore **RECOMMENDS** that the plea of guilty be accepted and that the defendant be adjudged guilty and have sentence imposed accordingly.

SO ORDERED this 23rd day of June, 2017.

/s/ J. CLAY FULLER
J. CLAY FULLER
United States Magistrate Judge